

II. REMARKS

Claim Status

Claims 41-46 are subject to restriction. Claims 1-9, 11-13 and 25-40 are cancelled. Claims 10 and 14-24 are withdrawn.

Restriction Requirement

As stated by the examiner, this application contains claims directed to the following patentably distinct species:

- a) fibrinogen with a HMW content of at least 80% w/w,
- b) fibrinogen with a HMW content of less than 60% w/w,
- c) fibrinogen with a LMW content of at least 40% w/w,
- d) fibrinogen with a LMW content of less than 20% w/w.

The examiner states that the species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species.

Applicant traverses this requirement.

The claims in the application are method claims where the unifying concept is artificially modifying the angiogenesis properties of a fibrin matrix.

The effect may be to up-regulate (specification page 10, lines 11-16) or down-regulate (specification page 10, lines 17-22) the angiogenesis properties but the method of obtaining those different results is dependent only on the different starting materials.

As a secondary basis for traverse, even assuming, *arguendo*, that the differing effect caused by the different concentration in the starting material, there is no basis for restriction between the examiner's group a) and group b) or between group c) and group d).

Applicant further believes that there is no examination and search burden because the patentably distinct species nonetheless relate to a single method involving modifying the angiogenesis properties of a fibrin matrix.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Solely for the purpose of completely complying with this restriction requirement, applicant elects group a.

In the event the examiner is persuaded by applicant's secondary argument, applicant elects groups a and b.

Applicant understands that upon the allowance of a generic claim, (claims 41 and 44) applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.


Favorable reconsideration of this restriction requirement is respectfully requested.

The Commissioner is hereby authorized to charge payment

for any fees associated with this communication or credit
any over payment to Deposit Account No. 14-1263.

Respectfully submitted,

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